IN THE HIGH COURT OF JUDICATURE
ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE J.CHELAMESWAR
and
THE HON'BLE MR JUSTICE D.APPA RAO

WRIT PETITION NO :26532 of 2006

Dated: 22nd December 2006.

Between:
M/s. Emami Limited 5-5-184, Vanasthalipuram, Hyderabad.

..... PETITIONER

AND

Additional Commissioner (CT)(Legal), Office of the Commissioner of Commercial Taxes, Andhra Pradesh, Hyderabad and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE J.CHELAMESWAR
AND
THE HON'BLE SRI JUSTICE D.APPA RAO

W.P.NO.26532 OF 2006

ORAL ORDER:

(Per the Hon'ble Sri Justice J.Chelameswar)

The petitioner is a limited Company carrying on business in the manufacture and sale of ayurvedic drugs as well as cosmetics. It is a registered dealer both under the A.P.G.S.T. and C.S.T Acts on the rolls of the 2nd respondent. For the period commencing from October 2004 to January 2005, the petitioner filed monthly returns claiming that one of its products, called Navratan Oil, falls under Entry-37 of the I Schedule to the A.P.G.S.T. Act and therefore, taxable @ 10%. But, the 2nd respondent did not agree with the petitioner and made a provisional assessment on 02-03-2005, holding the said commodity to be cosmetic and taxable @ 20%. Though it is not expressly stated in the affidavit filed in support of the writ petition that the petitioner carried the matter in appeal, by necessary inference from the pleadings at Paragraph No.4, we have to state that the order was challenged in an appeal before the Appellate Deputy Commissioner. Along with the appeal, it appears that the petitioner filed an application for stay of the recovery of the disputed tax. The said application was dismissed by the Appellate Deputy Commissioner, by his order dated

22-03-2005. Eventually, the appeal itself came to be dismissed by an order dated

30-03-2005. The petitioner carried the matter in a further appeal before the Sales Tax Appellate Tribunal. In view of the dismissal of the stay application once, during the pendency of the first appeal, the petitioner approached this Court by way of writ petition, without moving an application before the 1st respondent.

Heard the learned Government Pleader for Commercial Tax.

In the circumstances, we are of the opinion that the matter can be disposed of at this stage directing the respondents not to take any coercive steps for collection of the disputed tax, during the pendency of the abovementioned appeal before the Tribunal, on condition of the petitioner depositing 50% of the disputed tax within a period of six weeks from today. The amount already paid, if any, towards the disputed tax, shall be given credit to while computing the abovementioned 50% deposit.

Accordingly, with the above direction, the writ petition is disposed of at the stage of admission.

J.Chelameswar, J

D.Appa Rao, J

22nd December 2006
mrk